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UNCLAS SECTION 01 OF 02 PHNOM PENH 000716

SENSITIVE
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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [KJUS](#) [CB](#)
SUBJECT: COURT ACQUITS SRP PARLIAMENTARIAN HO VANN OF
DEFAMATION; FINES JOURNALISTS UNDER PRESS LAW

REF: PHNOM PENH 413

SENSITIVE BUT UNCLASSIFIED

¶1. (SBU) SUMMARY: In a surprise verdict September 22, the Phnom Penh Municipal Court acquitted opposition Parliamentarian Ho Vann of defamation charges, but fined Cambodia Daily editor-in-chief Kevin Doyle and journalist Nou Vannarinn for violating the Press Law on publishing retractions. The plaintiffs--22 RCAF officials who sued as a unit--have 30 days to appeal. It remains unclear whether Ho Vann's parliamentary immunity will be restored by a two-thirds vote in the National Assembly. END SUMMARY.

Surprise Acquittal

¶2. (SBU) The Phnom Penh Municipal Court surprised observers September 22, when Judge Suon Visal acquitted opposition Parliamentarian Ho Vann, a member of the Sam Rainsy Party, of all charges relating to a defamation complaint filed by 22 Royal Cambodian Armed Forces (RCAF) soldiers. The judge stated that based on Ho Vann's actions to clarify what he said were misquotes by The Cambodia Daily reporter Nou Vannarinn, and the newspaper's inability to provide the original interview notes of the conversation, there was no evidence that Ho Vann intended to defame the soldiers.

Journalists Liable for Civil Infraction; Fined

¶3. (SBU) The court also dismissed defamation charges against The Cambodia Daily editor-in-chief Kevin Doyle and reporter Nou Vannarinn, but found them liable under Article 10 of the Press Law, which stipulates how media outlets must handle requested retractions. The Press Law requires media outlets to publish retractions or replies to statements in the next issue after receiving a request for retraction or reply; the retraction or reply must also be published in the same language in which it was received, on the same page where the original article appeared, and must be the same size font as the original article. After the article in question was published, Ho Vann wrote a letter in Khmer to The Cambodia Daily requesting a clarification and claiming he was misquoted in the article, which was published in both English and Khmer editions of The Cambodia Daily. But The Cambodia Daily published only an English translation of his letter in the "Letters to the Editor" section, although the original article appeared on the front page, and did not publish anything in the Khmer-language edition until a few days later. The judge found the journalists liable for that infraction, and ordered each to pay a fine of 4 million Riels (approximately \$1,000 USD), as permitted under the law.

Case Background

14. (SBU) In April, 22 RCAF soldiers alleged that Ho Vann defamed them and was attempting to incite the public when he reportedly told journalist Nou Vannarin that degrees earned by the soldiers from a Vietnamese military institute were "worthless." Following publication of those comments, Ho Vann wrote to The Cambodia Daily, claiming Nou misquoted him, and clarifying his actual statements (reftel). The clarification appeared to resolve the complaint until June 22, when the National Assembly stripped Ho Vann of his parliamentary immunity in order to allow the charges to proceed. Ho Vann thereafter departed Cambodia for the United States.

15. (SBU) The court proceeded against Ho Vann in absentia on July 17, although it charged him only with defamation (which leads to monetary fines), and not the more serious charge of incitement (which can lead to jail) as the plaintiffs' lawyer had originally requested. Nou Vannarin was initially the only other defendant, and he refused to speak during the hearing since he had no legal representation. However, the judge suspended the hearing after a letter from The Cambodia Daily editor-in-chief Kevin Doyle was read into the record, in which Doyle claimed responsibility for publishing the article and asked the judge to charge him instead of his reporter. The judge suspended the hearing until Doyle could offer his statement in court. When the hearing resumed on September 9 with Doyle in attendance, the court charged both the editor and the reporter with defamation and the Press Law infraction. The judge delivered his verdict as expected on

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September 22.

COMMENT

16. (SBU) The case against Ho Vann has largely been eclipsed by the defamation case against his National Assembly and party colleague, Mu Sochua. In June, when the National Assembly stripped the immunity of both parliamentarians, Ho Vann expressed shock at the vote, claiming the complaint against him had been resolved through discussions between the parties. Ho Vann thereafter departed Cambodia, did not attend any of the trial, nor was he represented by a lawyer. His acquittal this week stunned most observers, who believed a defamation conviction for both Ho Vann and the journalists was a foregone conclusion. It remains unclear whether the plaintiffs will appeal or whether the National Assembly will restore Ho Vann's immunity. For the moment, at least, this case is a welcome relief from the recent spate of convictions on defamation charges. As Ou Virak, President of the Cambodia Center for Human Rights, noted following the hearing: "it's a little light in the darkness." More likely is that the verdict in this case reflects the early attempts by Ho Vann to correct what he always said was a misquote, thereby limiting or eliminating any vestige of personal affront and provocation that seem to characterize many similar cases.

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